

**IC 5-11**

**ARTICLE 11. ACCOUNTING FOR PUBLIC FUNDS**

**IC 5-11-1**

**Chapter 1. State Board of Accounts Created**

**IC 5-11-1-1**

**Establishment; members; appointment; qualifications; terms; tenure**

Sec. 1. (a) There is established a state board of accounts. The board consists of the state examiner and two (2) deputy examiners, as provided in this section.

(b) The principal officer of the board is the state examiner. To hold the office of state examiner, an individual must:

- (1) be appointed by the governor;
- (2) have the individual's appointment accepted by the legislative council in conformity with subsection (e); and
- (3) be a certified public accountant with at least five (5) years of accounting experience, including at least three (3) years of single audit experience in the public or private sector.

(c) The governor shall also appoint two (2) deputy examiners. To hold the office of deputy examiner, an individual must:

- (1) be appointed by the governor; and
- (2) be a certified public accountant.

A deputy examiner is subordinate to the state examiner. In the case of deputy examiners appointed after June 30, 2014, at least one (1) of the deputy examiners must have at least three (3) years of experience with the state board of accounts at the time of appointment.

(d) Not more than two (2) of the three (3) individuals appointed to the state board of accounts may be members of the same political party. The term of a state examiner is four (4) years. However, the term of the state examiner serving on January 1, 2014, ends December 31, 2017. Notwithstanding the expiration of the term of a state examiner, the state examiner may continue to serve as acting state examiner until a state examiner is appointed or reappointed. The term of a deputy examiner is coterminous with the term of the state examiner.

(e) The governor shall submit to the executive director of the legislative services agency in an electronic format under IC 5-14-6 the name of an individual who the governor recommends for appointment under subsection (b) along with any supporting information that the governor determines is appropriate. The executive director of the legislative services agency shall submit the governor's recommendation along with any submitted supporting information to the members of the legislative council and place the information on the Internet web site maintained by the general assembly. At a meeting open to the public, the legislative council may adopt a resolution to accept or reject a recommendation of the

governor. The legislative council may reject a recommendation with or without cause. If the legislative council fails to adopt a resolution accepting or rejecting a recommendation within forty-five (45) days after the recommendation is submitted to the executive director of the legislative services agency in an electronic format under IC 5-14-6, the recommendation shall be treated as accepted by the legislative council. The state examiner serving on January 1, 2014, shall be treated as accepted by the legislative council to the same extent as if the legislative council had adopted a resolution that accepted the state examiner's appointment.

(f) IC 4-21.5 applies to an action under this subsection. The state examiner and the deputy examiners are subject to removal by the governor for incompetency (including failure to maintain the individual's status as a certified public accountant) or for misconduct of the office. If the governor seeks to remove the state examiner under this subsection, the governor shall notify the state examiner in writing of the governor's proposed action in conformity with IC 4-21.5-3-4 and submit a copy of the notice to the executive director of the legislative services agency in an electronic format under IC 5-14-6. The notice must state the reasons for the proposed action and indicate that the state examiner has fifteen (15) days after being given notice to petition for review of the proposed action. The notice must specify that a petition for review of the proposed action must be made in writing and be submitted to the executive director of the legislative services agency in accordance with IC 4-21.5-3-7. The notice must also state that the state examiner may petition the legislative council under IC 4-21.5-3-4 for a stay of the proposed action pending final resolution of the matter. If a timely petition is filed with the executive director of the legislative services agency, the legislative council shall conduct a proceeding under IC 4-21.5 to review the petition. The determination by the legislative council is a final order. A state examiner removed from office under this subsection may petition for judicial review of a final action of the legislative council under IC 4-21.5-5 in the circuit or a superior court of Marion County. A deputy examiner removed from office under this subsection may petition for judicial review regarding the removal in the circuit or a superior court of Marion County.

(g) A vacancy in the office of state examiner or deputy examiner must be filled in the same manner provided under this section for the appointment of the vacating officer. An individual appointed to fill a vacancy serves for the remainder of the vacating individual's term. *(Formerly: Acts 1909, c.55, s.1; Acts 1915, c.72, s.1; Acts 1941, c.110, s.1; Acts 1943, c.236, s.1; Acts 1945, c.176, s.1.) As amended by Acts 1980, P.L.30, SEC.1; P.L.3-1986, SEC.7; P.L.39-1996, SEC.1; P.L.246-2005, SEC.53; P.L.104-2014, SEC.2.*

## **IC 5-11-1-2**

### **System of accounting and reporting**

Sec. 2. The state board of accounts shall formulate, prescribe, and

install a system of accounting and reporting in conformity with this chapter, which must comply with the following:

- (1) Be uniform for every public office and every public account of the same class and contain written standards that an entity that is subject to audit must observe.
- (2) Exhibit true accounts and detailed statements of funds collected, received, obligated, and expended for or on account of the public for any and every purpose whatever, and by all public officers, employees, or other individuals.
- (3) Show the receipt, use, and disposition of all public property and the income, if any, derived from the property.
- (4) Show all sources of public income and the amounts due and received from each source.
- (5) Show all receipts, vouchers, contracts, obligations, and other documents kept, or that may be required to be kept, to prove the validity of every transaction.

The state board of accounts shall formulate or approve all statements and reports necessary for the internal administration of the office to which the statements and reports pertain. The state board of accounts shall approve all reports that are published or that are required to be filed in the office of state examiner. The state board of accounts shall from time to time make and enforce changes in the system and forms of accounting and reporting as necessary to conform to law.

*(Formerly: Acts 1909, c.55, s.2; Acts 1945, c.176, s.2.) As amended by Acts 1980, P.L.30, SEC.2; P.L.3-1986, SEC.8; P.L.39-1996, SEC.2; P.L.176-2009, SEC.2.*

### **IC 5-11-1-3**

#### **Separate accounts**

Sec. 3. Separate accounts shall be kept for every appropriation or fund of the state or any municipality. Separate accounts shall also be kept for each department, undertaking, enterprise, institution, and public service industry.

*(Formerly: Acts 1909, c.55, s.3.) As amended by Acts 1980, P.L.30, SEC.3.*

### **IC 5-11-1-4**

#### **Annual report required for approval of budget, supplemental appropriations or for issuance of debt**

Sec. 4. (a) The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed under IC 5-14-3.8-7.

(b) The department of local government finance may not approve the budget of a political subdivision or a supplemental appropriation

for a political subdivision until the political subdivision files an annual report under subsection (a) for the preceding calendar year.

(c) As used in this subsection, "bonds" means any bonds, notes, or other evidences of indebtedness, whether payable from property taxes, other taxes, revenues, fees, or any other source. However, the term does not include notes, warrants, or other evidences of indebtedness that have a maturity of not more than five (5) years and that are made in anticipation of and to be paid from revenues of the political subdivision. Notwithstanding any other law, a county or municipality as provided in subsection (d) may not issue any bonds unless:

- (1) the county or municipality has filed an annual financial report with the state examiner for the preceding fiscal year; and
- (2) the annual financial report filed with the state examiner for the preceding fiscal year was prepared in accordance with all generally accepted accounting principles for financial accounting and reporting as established by the Governmental Accounting Standards Board. However, upon request of the county or municipality, the state examiner may waive the requirement under this subdivision.

The requirements under this subsection for the issuance of bonds by a county or municipality are in addition to any other requirements imposed under any other law. This subsection applies to the issuance of bonds authorized under any statute, regardless of whether that statute specifically references this subsection or the requirements under this subsection.

(d) The requirements under subsection (c) apply only to the following:

- (1) After June 30, 2017, and before July 1, 2019, the requirements under subsection (c) apply to:
  - (A) a county with a population greater than two hundred fifty thousand (250,000); and
  - (B) a municipality with a population greater than two hundred fifty thousand (250,000).
- (2) After June 30, 2019, and before July 1, 2020, the requirements under subsection (c) apply to:
  - (A) a county with a population greater than one hundred seventy-five thousand (175,000); and
  - (B) a municipality with a population greater than one hundred thousand (100,000).
- (3) After June 30, 2020, the requirements under subsection (c) apply to:
  - (A) a county with a population greater than one hundred thousand (100,000); and
  - (B) a municipality with a population greater than seventy-five thousand (75,000).

*(Formerly: Acts 1909, c.55, s.4.) As amended by Acts 1980, P.L.30, SEC.4; P.L.3-1986, SEC.9; P.L.44-1991, SEC.1; P.L.50-2000, SEC.2; P.L.189-2005, SEC.1; P.L.176-2009, SEC.3; P.L.172-2011,*

*SEC.11; P.L.137-2012, SEC.8; P.L.184-2015, SEC.5.*

#### **IC 5-11-1-5**

##### **Repealed**

*(Repealed by Acts 1980, P.L.30, SEC.19.)*

#### **IC 5-11-1-6**

##### **Forms of reports**

Sec. 6. The state board of accounts shall formulate, prescribe, and approve the forms for reports required to be made by this chapter.  
*(Formerly: Acts 1909, c.55, s.6.) As amended by Acts 1980, P.L.30, SEC.5; P.L.181-2015, SEC.10.*

#### **IC 5-11-1-7 Version a**

##### **Field examiners; private examiners**

*Note: This version of section amended by P.L.181-2015, SEC.11. See also following version of this section amended by P.L.213-2015, SEC.61.*

Sec. 7. (a) The state examiner shall appoint assistants not exceeding the number required to administer this article. The assistants are to be known as "field examiners" and are at all times subject to the order and direction of the state examiner. Field examiners shall inspect and examine accounts of all state agencies, municipalities, and other governmental units, entities, or instrumentalities.

(b) The state examiner may engage or, in accordance with section 24 of this chapter, allow the engagement of private examiners to the extent the state examiner determines necessary to satisfy the requirements of this article. These examiners are subject to the direction of the state examiner while performing examinations under this article.

(c) The state examiner may engage experts to assist the state board of accounts in carrying out its responsibilities under this article.  
*(Formerly: Acts 1909, c.55, s.7.) As amended by Acts 1980, P.L.30, SEC.6; P.L.3-1986, SEC.10; P.L.181-2015, SEC.11.*

#### **IC 5-11-1-7 Version b**

##### **Field examiners; private examiners; state colleges and universities**

*Note: This version of section amended by P.L.213-2015, SEC.61. See also preceding version of this section amended by P.L.181-2015, SEC.11.*

Sec. 7. (a) The state examiner shall appoint assistants not exceeding the number required to administer this article. The assistants are to be known as "field examiners" and are at all times subject to the order and direction of the state examiner. Field examiners shall inspect and examine accounts of all state agencies, municipalities, and other governmental units, entities, or instrumentalities.

(b) The state examiner may engage or allow the engagement of

private examiners to the extent the state examiner determines necessary to satisfy the requirements of this article. These examiners are subject to the direction of the state examiner while performing examinations under this article. The state examiner shall allow the engagement of private examiners for any state college or university subject to examination under this article if the state examiner finds that the private examiner is an independent certified public accountant firm with specific expertise in the financial affairs of educational organizations. These private examiners are subject to the direction of the state examiner while performing examinations under this article.

(c) The state examiner may engage experts to assist the state board of accounts in carrying out its responsibilities under this article.  
*(Formerly: Acts 1909, c.55, s.7.) As amended by Acts 1980, P.L.30, SEC.6; P.L.3-1986, SEC.10; P.L.213-2015, SEC.61.*

### **IC 5-11-1-8**

#### **Field examiners**

Sec. 8. All appointments of field examiners shall be made solely upon the ground of fitness and without regard to the political affiliation of the appointee. The state board of accounts is empowered to make and establish, and from time to time alter and amend, by-laws, rules and regulations for the proper enforcement of the provisions of this article and other laws placing duties and responsibilities on the state board of accounts.

*(Formerly: Acts 1909, c.55, s.8.) As amended by Acts 1980, P.L.30, SEC.7; P.L.100-2012, SEC.17.*

### **IC 5-11-1-9**

#### **Financial examinations; required inquiries; inefficiencies encountered; witnesses; records; process**

Sec. 9. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall examine all accounts and all financial affairs of every public office and officer, state office, state institution, and entity.

(b) An examination of an entity deriving:

- (1) less than fifty percent (50%); or
- (2) subject to subsection (h), at least fifty percent (50%) but less than two hundred thousand dollars (\$200,000) if the entity is organized as a not-for-profit corporation;

of its disbursements during the period subject to an examination from appropriations, public funds, taxes, and other sources of public expense shall be limited to matters relevant to the use of the public money received by the entity.

(c) The examination of an entity described in subsection (b) may be waived by the state examiner if the state examiner determines in writing that all disbursements of public money during the period subject to examination were made for the purposes for which the money was received. However, the:

(1) Indiana economic development corporation created by IC 5-28-3 and the corporation's funds, accounts, and financial affairs; and

(2) department of financial institutions established by IC 28-11-1-1 and the department's funds, accounts, and financial affairs;

shall be examined by the state board of accounts.

(d) On every examination under this section, inquiry shall be made as to the following:

(1) The financial condition and resources of each municipality, office, institution, or entity.

(2) Whether the laws of the state and the uniform compliance guidelines of the state board of accounts established under section 24 of this chapter have been complied with.

(3) The methods and accuracy of the accounts and reports of the person examined.

The examinations may be made without notice.

(e) If during an examination of a state office under this chapter the examiner encounters an inefficiency in the operation of the state office, the examiner may comment on the inefficiency in the examiner's report.

(f) The state examiner, deputy examiners, any field examiner, or any private examiner, when engaged in making any examination or when engaged in any official duty devolved upon them by the state examiner, is entitled to do the following:

(1) Enter into any state, county, city, township, or other public office in this state, or any entity, agency, or instrumentality, and examine any books, papers, documents, or electronically stored information for the purpose of making an examination.

(2) Have access, in the presence of the custodian or the custodian's deputy, to the cash drawers and cash in the custody of the officer.

(3) During business hours, examine the public accounts in any depository that has public funds in its custody pursuant to the laws of this state.

(g) The state examiner, deputy examiner, or any field examiner, when engaged in making any examination authorized by law, may issue subpoenas for witnesses to appear before the examiner in person or to produce books, papers, or other records (including records stored in electronic data processing systems) for inspection and examination. The state examiner, deputy examiner, and any field examiner may administer oaths and examine witnesses under oath orally or by interrogatories concerning the matters under investigation and examination. Under the authority of the state examiner, the oral examinations may be transcribed with the reasonable expense paid by the examined person in the same manner as the compensation of the field examiner is paid. The subpoenas shall be served by any person authorized to serve civil process from any court in this state. If a witness duly subpoenaed refuses to attend,

refuses to produce information required in the subpoena, or attends and refuses to be sworn or affirmed, or to testify when called upon to do so, the examiner may apply to the circuit court having jurisdiction of the witness for the enforcement of attendance and answers to questions as provided by the law governing the taking of depositions.

(h) The definitions in IC 20-24-1 apply throughout this subsection. Appropriations, public funds, taxes, and other sources of public money received by a nonprofit corporation as a charter school or organizer of a charter school for the purposes of a charter school may not be counted for the purpose of applying subsection (b)(2). Unless the nonprofit corporation receives other public money that would qualify the nonprofit corporation for a full examination of all accounts and financial affairs of the entity under subsection (b)(2), an examination of a charter school or organizer of a charter school must be limited to matters relevant to the use of the public money received for the charter school. This subsection does not prohibit the state examiner, personally or through the deputy examiners, field examiners, or private examiners, from examining the accounts in which appropriations, public funds, taxes, or other sources of public money are applied that are received by a nonprofit corporation as a charter school or organizer of a charter school relating to the operation of the charter school.

*(Formerly: Acts 1909, c.55, s.9; Acts 1945, c.176, s.3.) As amended by Acts 1978, P.L.2, SEC.506; Acts 1980, P.L.30, SEC.8; P.L.3-1986, SEC.11; P.L.63-1989, SEC.1; P.L.70-1995, SEC.1; P.L.39-1996, SEC.3; P.L.50-1999, SEC.1; P.L.4-2005, SEC.25; P.L.213-2007, SEC.2; P.L.217-2007, SEC.2; P.L.172-2011, SEC.12; P.L.280-2013, SEC.3; P.L.181-2015, SEC.12.*

#### **IC 5-11-1-9.5**

##### **Confidential reporting; grounds for examination; retaliation; relief**

Sec. 9.5. (a) An individual may report suspected malfeasance, misfeasance, or nonfeasance by a public officer to the state board of accounts. The individual's identity is confidential unless a civil proceeding is pending under IC 5-11-5-1(a) and the court orders disclosure.

(b) The state examiner may not undertake an examination of a public office, officer, or institution based on the allegation of an individual, organization, or institution that a violation of the law has occurred unless:

- (1) the individual or representative of the organization or institution makes the allegation in the form of a sworn statement that the individual or representative believes the allegation to be true; or
- (2) the state examiner has probable cause to believe that a violation of the law has occurred.

(c) A public office, officer, or institution may not retaliate against an employee of the state or a political subdivision for making a report under subsection (a) or a sworn statement described in subsection (b).



(d) An individual who has been discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against by the individual's employer in the terms and conditions of employment as a result of the individual's good faith reporting actions under this section is entitled to all relief necessary to make the individual whole.

(e) Relief under subsection (d) for an individual bringing an action against a person who is not a state officer or state agency includes the following:

(1) Reinstatement with the same seniority status the individual would have but for the act described in subsection (d).

(2) Two (2) times the amount of back pay that is owed to the individual.

(3) Interest on the back pay that is owed to the individual.

(4) Compensation for any special damages sustained by the individual as a result of the act described in subsection (d), including costs and expenses of litigation and reasonable attorney's fees.

(f) An individual may bring an action against a person who is not a state officer or state agency for the relief provided in this section in a court with jurisdiction.

*As added by P.L.51-1985, SEC.1. Amended by P.L.52-2015, SEC.1.*

#### **IC 5-11-1-9.7**

##### **Withdrawal or removal of counties from solid waste management districts**

Sec. 9.7. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall examine the division under IC 13-21-4-4 of the responsibility for legal obligations entered into by a joint solid waste management district upon the withdrawal or removal of a county from the district.

(b) Not later than one hundred twenty (120) days after the effective date of the withdrawal or removal, the state examiner shall issue a report of the examination under subsection (a) to:

(1) the board of directors of the joint solid waste management district; and

(2) the executive of the county that withdrew or was removed from the joint solid waste management district.

(c) A report under this section may be used as evidence in an action seeking to enforce the payment of legal obligations entered into by a joint solid waste management district.

*As added by P.L.74-2002, SEC.1.*

#### **IC 5-11-1-10**

##### **Failure to file report; interference with examiners; offense**

Sec. 10. A public officer who:

(1) fails to make, verify, and file with the state examiner any report required by this chapter;

(2) fails to follow the directions of the state examiner in keeping the accounts of the officer's office;

- (3) refuses the state examiner, deputy examiner, field examiner, or private examiner access to the books, accounts, papers, documents, cash drawer, or cash of the officer's office; or
- (4) interferes with an examiner in the discharge of the examiner's official duties;

commits a Class B infraction and forfeits office.

*(Formerly: Acts 1909, c.55, s.10.) As amended by Acts 1978, P.L.2, SEC.507; P.L.3-1986, SEC.12.*

#### **IC 5-11-1-11**

##### **Records of money collected; public inspection**

Sec. 11. There shall be kept in the office of each public officer, board, commission, agency, instrumentality, and institution in this state, a record of money collected for the public treasury, the forms and records for which, for each class of offices, shall be devised and formulated by the state board of accounts. Such records as are provided for in this section shall be public records and must be accessible to the public during regular office hours.

*(Formerly: Acts 1909, c.55, s.11.) As amended by Acts 1980, P.L.30, SEC.9.*

#### **IC 5-11-1-12**

##### **Repealed**

*(Repealed by Acts 1980, P.L.30, SEC.19.)*

#### **IC 5-11-1-13**

##### **Warrants or checks of state or municipality; receipts or quietus; correctness of claims**

Sec. 13. Each officer having authority to draw the warrant or check of the state or of any municipality referred to in this chapter in disbursing its funds, or who has authority to execute the receipt or quietus of the state or of such municipality in settlement with public officers or with debtors, before presenting the same for allowance to the board or other authority required to pass upon the same, shall make an examination of all claims as to their form, the authentication thereof as required by law, whether they are based upon contract or statutory authority, and as to their apparent correctness, and upon presenting the same to file therewith his certificate in writing as to such matters in respect to each and all of such claims. Where the authority to pass upon and allow such claim is lodged in such officer, he shall, before drawing a warrant or check therefor, certify to the correctness thereof over his official signature. Before issuing the receipt or quietus of the state or municipality to any debtor or any officer making settlement, he shall examine the report, account or settlement sheet upon which settlement is made, and require of such debtor or officer, or to otherwise secure, all such information, accounts, vouchers or exhibits as shall be necessary to satisfy such officer issuing such receipt or quietus of the correctness of such report, account or settlement sheet, and to certify thereon that he has

made such examination and is satisfied as to its correctness, and no such warrant, check, receipt, or quietus shall be issued by any such officer until such certificate shall have been executed and filed with such claim, report, account or settlement sheet. Where it is not practical for the officer to certify to the correctness of each revenue or claim document, the state board of accounts may prescribe other methods of preaudit to be performed before approval by the officer or his employees.

*(Formerly: Acts 1909, c.55, s.13.) As amended by Acts 1980, P.L.30, SEC.10.*

#### **IC 5-11-1-14**

##### **Salaries and traveling expenses of state examiner, deputies, and assistants**

Sec. 14. The salaries and necessary traveling expenses of the state examiner, his deputies, and assistants when engaged in the business of the state shall be paid as otherwise provided by law.

*(Formerly: Acts 1909, c.55, s.15.) As amended by Acts 1980, P.L.30, SEC.11.*

#### **IC 5-11-1-15**

##### **Bonds and crime policies for faithful performance**

Sec. 15. (a) The state examiner, deputy examiners, and field examiners shall each give bond for the faithful performance of the examiner's duties, as follows:

(1) The state examiner in the sum of five thousand dollars (\$5,000), to be approved by the governor.

(2) Each deputy examiner in the sum of three thousand dollars (\$3,000), to be approved by the governor.

(3) Each field examiner in the sum of one thousand dollars (\$1,000), to be approved by the state examiner. However, field examiners may be covered by a blanket bond or crime insurance policy endorsed to include faithful performance under IC 5-4-1-15.1 subject to approval of the state examiner.

(b) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

*(Formerly: Acts 1909, c.55, s.16; Acts 1967, c.268, s.1.) As amended by P.L.3-1986, SEC.13; P.L.49-1995, SEC.6.*

#### **IC 5-11-1-16**

##### **Definitions**

Sec. 16. (a) As used in this article, "municipality" means any county, township, city, town, school corporation, special taxing district, or other political subdivision of Indiana.

(b) As used in this article, "state" means any board, commission, department, division, bureau, committee, agency, governmental subdivision, military body, authority, or other instrumentality of the state, but does not include a municipality.

(c) As used in this article, "public office" means the office of any

and every individual who for or on behalf of the state or any municipality or any public hospital holds, receives, disburses, or keeps the accounts of the receipts and disbursements of any public funds.

(d) As used in this article, "public officer" means any individual who holds, receives, disburses, or is required by law to keep any account of public funds or other funds for which the individual is accountable by virtue of the individual's public office.

(e) As used in this article, "entity" means any provider of goods, services, or other benefits that is:

- (1) maintained in whole or in part at public expense; or
- (2) supported in whole or in part by appropriations or public funds or by taxation.

The term does not include the state or a municipality (as defined in this section).

(f) As used in this article, a "public hospital" means either of the following:

- (1) An institution licensed under IC 16-21 and which is owned by the state or an agency of the state or one which is a municipal corporation. A hospital is a municipal corporation if its governing board members are appointed by elected officials of a municipality.
- (2) A state institution (as defined in IC 12-7-2-184).

(g) As used in this article, "audit committee" refers to the audit and financial reporting subcommittee of the legislative council established by IC 2-5-1.1-6.3.

(h) As used in this article, "audited entity" has the meaning set forth in IC 2-5-1.1-6.3.

*(Formerly: Acts 1909, c.55, s.17.) As amended by Acts 1980, P.L.30, SEC.12; P.L.3-1986, SEC.14; P.L.2-1992, SEC.52; P.L.2-1993, SEC.44; P.L.104-2014, SEC.3; P.L.181-2015, SEC.13.*

#### **IC 5-11-1-17**

##### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.521.)*

#### **IC 5-11-1-18**

##### **Examinations without notice; disclosure; offense**

Sec. 18. All examinations under this chapter may be made without notice to the officers whose accounts are to be examined, and without notice to any clerk, deputy, employee, or other person employed in or connected with the office or the business of such an officer. A person who recklessly communicates knowledge of any proposed examination of any public account:

- (1) that the board has determined to make without notice under this section; and
- (2) to the officer in charge of the account or to any other unauthorized person;

commits a Class B misdemeanor.

*(Formerly: Acts 1909, c.55, s.19.) As amended by Acts 1978, P.L.2, SEC.509; P.L.181-2015, SEC.14.*

#### **IC 5-11-1-19**

##### **Copyrighting uniform bookkeeping system; purchase of public office supplies**

Sec. 19. No system for uniform bookkeeping or any book, record, or form which may be adopted after April 5, 1909, shall be copyrighted unless it shall be deemed expedient by the governor that a copyright be procured in the name of the state, and if any such copyright be procured, the acceptance by the state or by any municipality of any bid for printed supplies of any sort shall operate as a license from the state to the successful bidder to manufacture any such copyrighted books, records, or forms included in such bid for public use without payment of royalty. All public books, records, and stationery used in the offices for which examination is provided in this chapter shall be purchased by the state, municipality, or institution after the manner provided by law.

*(Formerly: Acts 1909, c.55, s.20.) As amended by P.L.25-1986, SEC.36.*

#### **IC 5-11-1-20**

##### **Repealed**

*(Repealed by Acts 1980, P.L.30, SEC.19.)*

#### **IC 5-11-1-21**

##### **Mandatory adoption of uniform system; refusal to adopt or failure to use; offense; penalty**

Sec. 21. All public officers shall adopt and use the books, forms, records, and systems of accounting and reporting adopted by the state board of accounts, when directed so to do by the board, and all forms, books, and records shall be purchased by those officers in the manner provided by law. An officer who refuses to provide such books, forms, or records, fails to use them, or fails to keep the accounts of his office as directed by the board commits a Class C infraction and forfeits his office.

*(Formerly: Acts 1909, c.55, s.22.) As amended by Acts 1978, P.L.2, SEC.510.*

#### **IC 5-11-1-22**

##### **Existing duties; effect of chapter**

Sec. 22. The provisions of this chapter shall not be construed to relieve any officer of any duties required by law of him on April 5, 1909, with relation to the auditing of public accounts or the disbursement of public funds, but the provisions of this chapter shall be construed to be supplemental to all provisions of law existing on April 5, 1909, safeguarding the care and disbursement of public funds; and provided further, that the provisions of this chapter shall not be construed to limit or curtail the power of the governor of the

state under laws existing on April 5, 1909, to make examination or investigation of any public office or to require reports therefrom. *(Formerly: Acts 1909, c.55, s.23.) As amended by P.L.25-1986, SEC.37.*

#### **IC 5-11-1-23**

##### **Repealed**

*(Repealed by P.L.5-1988, SEC.35.)*

#### **IC 5-11-1-24**

##### **Uniform compliance guidelines for examinations and reports**

Sec. 24. (a) The state board of accounts shall establish in writing uniform compliance guidelines for the examinations and reports required by this chapter. The uniform compliance guidelines must include the standards that an entity must observe to avoid a finding that is critical of the audited entity for a reason other than the audited entity's failure to comply with a specific law.

(b) The state board of accounts may not establish guidelines for the auditing of an audited entity that are inconsistent with any federal audit guidelines that govern the audited entity.

(c) The state board of accounts must distribute the uniform compliance guidelines to each audited entity that the state board of accounts may audit.

(d) If the state board of accounts engages or authorizes the engagement of a private examiner to perform an examination under this chapter, the examination and report must comply with the uniform compliance guidelines established under subsection (a). If a person subject to examination under this chapter engages a private examiner, the contract with the private examiner must require the examination and report to comply with the uniform compliance guidelines established under subsection (a).

(e) An audited entity may not request proposals for performing examinations of an audited entity unless the request for proposals has been submitted to and approved by the state board of accounts.

*As added by P.L.3-1986, SEC.15. Amended by P.L.39-1996, SEC.4; P.L.181-2015, SEC.15.*

#### **IC 5-11-1-24.4**

##### **Opt out of state board of accounts examination; selection of certified public accountant to perform examination; examination report**

Sec. 24.4. (a) This section applies only to an audited entity (excluding a school corporation or a college or university (as defined in IC 21-7-13-10)) that has:

- (1) an internal control officer; and
- (2) an internal control department;

established by the legislative body of the audited entity. However, the requirements of this section do not apply to a consolidated city that hires an internal auditor or an independent certified public

accountant, or both, as authorized under IC 36-3-4-24 to examine the books and records of the consolidated city.

(b) An audited entity may request in writing that the state board of accounts authorize the audited entity to:

- (1) opt out of examinations by the state board of accounts; and
- (2) engage a certified public accountant to conduct the examinations.

The request must be approved by resolution adopted by the legislative body for the audited entity.

(c) The state board of accounts shall, not more than sixty (60) days after receiving a written request under subsection (b):

- (1) acknowledge receipt of the request; and
- (2) notify the requesting audited entity that the request is:
  - (A) approved; or
  - (B) disapproved.

(d) The state board of accounts shall approve a request under subsection (b) by an audited entity if the state examiner determines that:

- (1) the audited entity filed the written request under subsection (b) with the state board of accounts more than one hundred eighty (180) days before the beginning of the audited entity's fiscal year;
- (2) the audited entity selects the certified public accountant in accordance with the selection procedure under this section;
- (3) the certified public accountant selected by the audited entity is:
  - (A) licensed in Indiana; and
  - (B) qualified to conduct examinations in accordance with the government auditing standards adopted by the state board of accounts;
- (4) the certified public accountant's examination shall:
  - (A) be conducted in accordance with the guidelines established by the state board of accounts; and
  - (B) make findings regarding the audited entity's compliance with the uniform compliance guidelines established by the state board of accounts;
- (5) the certified public accountant's examination is paid for by the audited entity; and
- (6) the certified public accountant's examination of the audited entity includes:
  - (A) all associated component units;
  - (B) audits required or necessary for federal financial assistance;
  - (C) findings of noncompliance with state law and uniform compliance guidelines as required by IC 5-11-5-1; and
  - (D) a separate report in accordance with the guidelines established by the state board of accounts for any items of noncompliance identified.

(e) The audited entity must use the following selection procedures:

(1) The legislative body of the audited entity shall establish an audit committee to facilitate the selection of a certified public accountant. The audit committee shall be composed of the following three (3) members:

(A) One (1) member of the legislative body appointed by the legislative body.

(B) One (1) certified public accountant appointed by the legislative body who is not the fiscal officer or an employee of the audited entity.

(C) One (1) person appointed by the executive of the audited entity who is qualified due to an involvement with financial matters, and who is not the fiscal officer or an employee of the audited entity.

Each member shall be appointed for a three (3) year term and shall serve without compensation. However, a member appointed under subdivision (1)(A) who ceases to hold the office of legislative body member ceases to be a member of the audit committee. A member may not have a contractual relationship, financial interest, or political affiliation with the certified public accountant selected.

(2) The audit committee established under subdivision (1) shall do the following:

(A) Establish factors to evaluate the audit services provided by a certified public accountant, including:

(i) experience;

(ii) ability to perform the required services;

(iii) capability to follow the guidelines and standards adopted by the state board of accounts;

(iv) ability to timely complete all necessary components of the examination; and

(v) any other factors considered necessary by the audit committee.

(B) Publish notice of a request for proposals under IC 5-3-1 that includes:

(i) a brief description of the audit requirements;

(ii) a time frame;

(iii) application procedures;

(iv) evaluation criteria; and

(v) any other items considered necessary by the audit committee.

(C) Evaluate the proposals submitted by qualified certified public accountants. If compensation is a factor established under clause (A), it may not be the sole factor used to evaluate proposals.

(D) Rank and recommend in order of preference not fewer than three (3) certified public accountants considered most highly qualified on the factors established under clause (A). If fewer than three (3) certified public accountants respond to the request for proposals, the audit committee shall



recommend the remaining qualified certified public accountants in order of preference.

(3) The legislative body of the audited entity shall select a qualified certified public accountant from the list recommended by the audit committee and shall negotiate a contract with the certified public accountant using one (1) of the following methods:

(A) If compensation is a factor established under subdivision (2)(A), the legislative body shall:

- (i) select; or
- (ii) document the reason for not selecting;  
the highest ranked certified public accountant.

(B) If compensation is not a factor established under subdivision (2)(A), the legislative body shall negotiate a contract with the highest ranked qualified certified public accountant. If unable to negotiate a satisfactory contract with the highest ranked qualified certified public accountant, the legislative body shall:

- (i) formally terminate negotiations; and
- (ii) negotiate with the second highest ranked certified public accountant.

Negotiations with the other ranked certified public accountants shall be undertaken in the same manner. The legislative body may reopen formal negotiations with any of the top three (3) ranked certified public accountants but may not negotiate with more than one (1) certified public accountant at a time.

(C) The legislative body may select a certified public accountant recommended by the audit committee and negotiate a contract using an appropriate alternative negotiation method for which compensation is not the sole or predominant factor.

(D) In negotiations with a certified public accountant, the legislative body may allow a designee, who is not the fiscal officer of the audited entity, to conduct negotiations on its behalf.

(4) If the legislative body is unable to negotiate a satisfactory contract with any of the recommended certified public accountants, the audit committee shall recommend additional certified public accountants, and negotiations shall continue in accordance with this section until an agreement is reached.

(5) The procurement of audit services shall be evidenced by a written contract embodying all provisions and conditions. For purposes of this section, an engagement letter signed and executed by both parties shall constitute a written contract. The written contract shall include the following provisions:

(A) Specification of services to be provided and fees or other compensation for the services.

(B) Invoices for fees or other compensation shall be

submitted in sufficient detail to demonstrate compliance with the terms of the contract.

(C) Specification of the contract period and conditions under which the contract may be terminated or renewed.

(D) The certified public accountant shall perform the examination in accordance with:

- (i) the guidelines and standards adopted by the state board of accounts;
- (ii) auditing standards generally accepted in the United States; and
- (iii) if applicable, government auditing standards, Office of Management and Budget Circular A-133, and any other guidelines required by the industry.

(E) If the certified public accountant discovers or suspects instances of fraud, abuse of public funds, or the commission of a crime, the certified public accountant shall notify the state board of accounts:

- (i) immediately; and
- (ii) before disclosing the discovery or suspicion to the audited entity.

(F) The certified public accountant shall deliver the completed examination report to the state board of accounts:

- (i) at the same time as the audited entity; and
- (ii) not later than thirty (30) days after completion of the examination.

The report shall be in a readable format prescribed by the state board of accounts.

(G) All work papers supporting the examination report shall be available for review by the state board of accounts.

(6) If a legislative body of an audited entity renews a written contract with a certified public accountant that was entered into in accordance with this section, the legislative body may renew the contract without complying with the selection procedures in this subsection.

(f) The certified public accountant must deliver the completed examination report to the state board of accounts not later than thirty (30) days after completion of the examination. The state board of accounts shall review the examination report and may:

- (1) ask questions of the certified public accountant;
- (2) review the examination work papers; and
- (3) take any other actions necessary to verify that the guidelines and standards adopted by the state board of accounts have been satisfied.

(g) If the certified public accountant's examination:

- (1) satisfies the guidelines and standards adopted by the state board of accounts, the state examiner shall publicly file the examination report under IC 5-11-5-1; or
- (2) fails to satisfy the guidelines and standards adopted by the state board of accounts:

- (A) the state board of accounts shall perform the audit; and
- (B) the audited entity shall reimburse the state board of accounts for the actual and direct cost of performing the examination.

(h) An audited entity that engages a certified public accountant under this section shall reimburse the state board of accounts for all direct and indirect costs incurred by the state board of accounts for any technical assistance and support requested by the audited entity.

(i) An audited entity may terminate the use of a certified public accountant engaged under this section if:

- (1) the termination is approved by resolution adopted by the legislative body of the audited entity; and
- (2) written notice of the termination is provided to the state board of accounts more than one hundred eighty (180) days before the beginning of the audited entity's fiscal year.

(j) Conducting an examination of an audited entity by a certified public accountant does not prohibit the state board of accounts from conducting a compliance review of the audited entity or an examination under section 9.5 of this chapter on the schedule determined by the state board of accounts.

*As added by P.L.181-2015, SEC.16.*

#### **IC 5-11-1-25**

##### **Risk based examination criteria used to determine examination frequency; biennial school corporation examinations**

Sec. 25. (a) This section and section 24.4 of this chapter do not limit the application of any law that requires a municipality, a public hospital, another public office or public officer, an entity, or another person or organization to be audited or otherwise examined on an annual or other basis by:

- (1) a certified public accountant; or
- (2) a person other than the state examiner or the state board of accounts.

(b) Subject to section 9 of this chapter and subsections (c) and (d), the state board of accounts shall conduct examinations of audited entities at the times determined by the state board of accounts, but not less than once every four (4) years, using risk based examination criteria that are established by the state board of accounts and approved by the audit committee. The risk based examination criteria must include the following risk factors:

- (1) An audited entity has a newly elected or appointed fiscal officer.
- (2) An audited entity:
  - (A) has not timely filed; or
  - (B) has filed a materially incorrect or incomplete; annual financial report required by section 4 of this chapter.
- (3) Any other factor determined by the state examiner and approved by the audit committee.

(c) Examinations must be conducted annually for the following:

- (1) The state.
- (2) An audited entity (other than a school corporation) that requires an annual audit:
  - (A) because of the receipt of federal financial assistance in an amount that subjects the audited entity to an annual federal audit;
  - (B) due to continuing disclosure requirements; or
  - (C) as a condition of a public bond issuance.

An audited entity shall, under the guidelines established by the state board of accounts, provide notice to the state examiner not later than sixty (60) days after the close of the audited entity's fiscal year that the audited entity is required to have an annual audit under subdivision (2).

(d) As permitted under this section since September 1, 1986 (the effective date of P.L.3-1986, SECTION 16), examinations of school corporations shall be conducted biennially.

*As added by P.L.3-1986, SEC.16. Amended by P.L.2-1991, SEC.27; P.L.181-2015, SEC.17.*

#### **IC 5-11-1-26**

##### **Examination reports; requisites; performance of public works; powers of board**

Sec. 26. (a) If a state office, municipality, or other entity has authority to contract for the construction, reconstruction, alteration, repair, improvement, or maintenance of a public work, the state board of accounts shall include in each examination report concerning the state office, municipality, or entity:

- (1) an opinion concerning whether the state office, municipality, or entity has complied with IC 5-16-8; and
- (2) a brief description of each instance in which the state office, municipality, or entity has exercised its authority under IC 5-16-8-2(b) or IC 5-16-8-4.

(b) If a municipality or a county performs a public work by means of its own workforce under IC 36-1-12-3, the state board of accounts shall include the following in each examination report concerning the municipality or county:

- (1) An opinion concerning whether the municipality or county has complied with IC 36-1-12-3 for each public work performed by the entity's own workforce.
- (2) A brief description of each public work that the municipality or county has performed with its own workforce under IC 36-1-12-3, including a calculation of the actual cost of each public work under IC 36-1-12-3.
- (3) An opinion concerning whether the municipality or county has complied with IC 36-1-12-19 in calculating the actual costs of a public work project performed under IC 36-1-12-3.

(c) If a state agency performs a public work by means of its own workforce under IC 4-13.6-5-4, the state board of accounts shall include the following in each examination report concerning the

agency:

- (1) An opinion concerning whether the agency has complied with IC 4-13.6-5-4 for each public work performed by the agency's own workforce.
  - (2) A brief description of each public work that the agency has performed with its own workforce under IC 4-13.6-5-4, including a calculation of the actual cost of each public work under IC 4-13.6-5-4.
  - (3) An opinion concerning whether the agency has complied with IC 4-13.6-5-4(c) in calculating the actual costs of a public work project performed under IC 4-13.6-5-4.
- (d) If a state educational institution performs a public work by means of its own workforce under IC 5-16-1-1.5, the state board of accounts shall include the following in each examination report concerning the state educational institution:
- (1) An opinion concerning whether the state educational institution has complied with IC 5-16-1-1.5 for each public work performed by the state educational institution's own workforce.
  - (2) A brief description of each public work that the state educational institution has performed with its own workforce under IC 5-16-1-1.5, including a calculation of the actual cost of each public work under IC 5-16-1-1.5.
  - (3) An opinion concerning whether the state educational institution has complied with IC 5-16-1-1.5 in calculating the actual costs of a public work project performed under IC 5-16-1-1.5.
- (e) The state board of accounts may exercise any of its powers under this chapter concerning public accounts to carry out this section, including the power to require a uniform system of accounting or the use of forms prescribed by the state board of accounts.
- As added by P.L.63-1987, SEC.1. Amended by P.L.172-2011, SEC.13.*

#### **IC 5-11-1-27**

##### **Local governmental internal controls; personnel training; violations; reporting misappropriations**

Sec. 27. (a) As used in this section, "legislative body" has the meaning set forth in IC 36-1-2-9.

(b) As used in this section, "material" means a significant or consequential amount, as determined by the state examiner and approved by the audit committee.

(c) As used in this section, "personnel" means an officer or employee of a political subdivision whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, state government, a political subdivision, or another governmental entity.

(d) As used in this section, "political subdivision" has the meaning

set forth in IC 5-11-10.5-1.

(e) In the compliance guidelines authorized under section 24 of this chapter, the state board of accounts shall define and the audit committee shall approve not later than November 1, 2015, the acceptable minimum level of internal control standards and internal control procedures for internal control systems of political subdivisions, including the following:

- (1) Control environment.
- (2) Risk assessment.
- (3) Control activities.
- (4) Information and communication.
- (5) Monitoring.

The internal control standards and procedures shall be developed to promote government accountability and transparency.

(f) Not later than November 1, 2015, the state board of accounts shall develop or designate approved personnel training materials as approved by the audit committee, to implement this section.

(g) After June 30, 2016, the legislative body of a political subdivision shall ensure that:

- (1) the internal control standards and procedures developed under subsection (e) are adopted by the political subdivision; and
- (2) personnel receive training concerning the internal control standards and procedures adopted by the political subdivision.

(h) After June 30, 2016, the fiscal officer of a political subdivision shall certify in writing that:

- (1) the minimum internal control standards and procedures defined under subsection (e) have been adopted by the political subdivision; and
- (2) personnel, who are not otherwise on leave status, have received training as required by subsection (g)(2).

The certification shall be filed with the state board of accounts at the same time as the annual financial report required by section 4(a) of this chapter is filed. The certification shall be filed electronically in the manner prescribed under IC 5-14-3.8-7.

(i) After June 30, 2016, if the state board of accounts finds during an audit of a political subdivision that:

- (1) the political subdivision has not adopted the internal control standards and procedures required under subsection (g)(1); or
- (2) personnel of the political subdivision have not received the training required under subsection (g)(2);

the state board of accounts shall issue a comment in its examination report for the political subdivision. If, during a subsequent audit, the state board of accounts finds a violation described in subdivision (1) or (2) has not been corrected, the political subdivision has sixty (60) days after the date the state board of accounts notifies the political subdivision of its findings to correct the violation. If a violation is not corrected within the required period, the state board of accounts shall forward the information to the department of local government

finance.

(j) All erroneous or irregular material variances, losses, shortages, or thefts of political subdivision funds or property shall be reported immediately to the state board of accounts. For all material variances, losses, shortages, or thefts, the state board of accounts shall:

- (1) determine the amount of funds involved and report the amount to the appropriate government and law enforcement officials;
- (2) determine the internal control weakness that contributed to or caused the condition; and
- (3) make written recommendations to the appropriate legislative body or appropriate official overseeing the internal control system addressing:
  - (A) the method of correcting the condition; and
  - (B) the necessary internal control policies and internal control procedures that must be modified to prevent a recurrence of the condition.

(k) The legislative body or the appropriate official overseeing the internal control system shall immediately implement the policies and procedures recommended by the state board of accounts under subsection (j)(3)(B).

(l) A public officer who has actual knowledge of or reasonable cause to believe that there has been a misappropriation of public funds or assets of the public office, including:

- (1) information obtained as a result of a police report;
- (2) an internal audit finding; or
- (3) another source indicating that a misappropriation has occurred;

shall immediately send written notice of the misappropriation to the state board of accounts and the prosecuting attorney serving in the area governed by the political subdivision.

(m) If the attorney general institutes civil proceedings related to this section or under IC 5-11-5-1, the attorney general shall seek, in addition to the recovery of any funds misappropriated, diverted, or unaccounted for, restitution of:

- (1) costs incurred by the state board of accounts; and
- (2) all costs and reasonable attorney's fees incurred by the attorney general;

in connection with the civil proceedings.

*As added by P.L.117-2011, SEC.2. Amended by P.L.184-2015, SEC.6.*

## **IC 5-11-1-28**

### **Annual internal audit and report required for certain agencies**

Sec. 28. (a) The bureau of motor vehicles (IC 9-14-1-1), office of the secretary of family and social services (IC 12-8-1.5-1), and department of state revenue (IC 6-8.1-2-1) shall each annually:

- (1) have performed by an internal auditor:
  - (A) an internal audit; and

- (B) a review of internal control systems;  
of the agency; and
  - (2) have the internal auditor report the results of the internal audit and review to an examiner designated by the state examiner to receive the results.
- (b) The examiner designated under subsection (a) shall, not later than September 1 of each year:
  - (1) compile a final report of the results of the internal audits and reviews performed and reported under subsection (a); and
  - (2) submit a copy of the final report to the following:
    - (A) The governor.
    - (B) The auditor of state.
    - (C) The chairperson of the audit committee, in an electronic format under IC 5-14-6.
    - (D) The director of the office of management and budget.
    - (E) The legislative council, in an electronic format under IC 5-14-6.

*As added by P.L.184-2015, SEC.7.*

#### **IC 5-11-1-28.2**

##### **Access to statement filed by financial institutions**

Sec. 28.2. The state board of accounts shall have regular access to any statement of condition filed by a depository (as defined in IC 5-13-4-8) with the treasurer of state under IC 5-13-10-3.

*As added by P.L.34-2015, SEC.1.*

#### **IC 5-11-1-29**

##### **Access to software supplied to a political subdivision**

Sec. 29. (a) As used in this section, "vendor" means a person who supplies electronic goods, software, or technological services (including computer services) to a political subdivision. The term does not include an employee of the political subdivision or an employee of the state.

(b) A vendor upon request shall allow the state board of accounts to access all software (including information and data that is stored in the software), and records of computer services that a vendor has supplied to a political subdivision. The access required to be allowed by a vendor under this section shall be:

- (1) limited to read only capability;
- (2) provided to the state board of accounts without prior:
  - (A) notice to; or
  - (B) approval of;
 the political subdivision to which the software was provided; and
- (3) provided through remote access, if requested by the state board of accounts.

*As added by P.L.34-2015, SEC.2.*

#### **IC 5-11-1-30**



**Request for examination according to generally accepted accounting principles**

Sec. 30. (a) An audited entity may request that an examination conducted by the state board of accounts be conducted in accordance with generally accepted accounting principles. A request by a public officer must be approved by resolution adopted by the legislative body for the audited entity.

(b) The state board of accounts shall, not more than sixty (60) days after receiving a request under subsection (a):

- (1) acknowledge receipt of the request; and
- (2) notify the requesting public officer or legislative body that the request is:
  - (A) approved; or
  - (B) disapproved.

(c) The state board of accounts shall approve a request under subsection (a) unless the state examiner determines that:

- (1) the audited entity, under the guidelines established by the state board of accounts, did not request the audit within sixty (60) days after the close of the audited entity's fiscal year;
- (2) the audited entity does not conduct its accounting according to generally accepted accounting principles;
- (3) the audited entity did not maintain the audited entity's financial records during the preceding year on a generally accepted accounting principles basis;
- (4) the annual financial statements and notes to the financial statements are not presented or will not be presented to the state board of accounts for audit on the schedule agreed to by the state examiner; or
- (5) the audited entity does not follow the other guidelines established by the state board of accounts.

*As added by P.L.181-2015, SEC.18.*